IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION

Dated: Nainital the 12th day of August 2005
Criminal Misc. Bail Application No.693/2005
Order on the bail application of accused

CRIMINAL SIDE

1. Mahendra Singh S/o late Shri Paltoo
   R/o House No.879 Type-2, Sector 3
   B.H.E.L. P.S. Ranipur
   District Haridwar
2. Smt. Krishna @ Kareshna
   W/o Shri Mahendra Singh
   R/o 879/2/3 B.H.E.L.
   P.S. Ranipur
   District Haridwar ..... Applicants

Versus

State of Uttaranchal ..... Opposite Party

Arising out of case crime No.99 of 2005
U/s 498-A, 304-B I.P.C. & 3/4 Dowry Prohibition Act
P.S. Ranipur
District Haridwar.

Hon'ble J.C.S. Rawat, J.

Heard Sri S. P. S. Panwar learned senior counsel for the applicants and learned A.G.A. for the State.

Perused the record. The applicant No.1-Mahendra Singh and the applicant No.2-Smt. Krishna @ Kareshna are the father-in-law and the mother-in-law of the deceased respectively. Firstly, I will consider the case of applicant No.1-Mahendra Singh. The learned senior counsel for the applicants contended that there are two families. Both the families are living separately. Applicant No.1-Mahendra Singh and his wife are living in one house. Narendra Kumar and his wife-deceased used to live in other house in the same locality. It was also admitted that these houses were allotted to them by the B.H.E.L. These are the Government accommodation. It was further contended that these houses are not interlinked with each other. The house of the applicants is situated in the ground floor, whereas the house of Narendra Kumar and the deceased is situated in the first floor. These two houses are connected with each other by staircase from outside. It was further contended that both the families have their separate ration-card and they live separately. The learned senior counsel for

the applicants further contended that the deceased did not write any letter, which is said to have been written either on 2.5.2005 or nearby dates, and it is a forged one. The said letter was submitted to the police by Lal Singh through his advocate-Dharmesh Kumar. The learned senior counsel for the applicants contended that there is no dowry demanded soon before the death of the deceased. As such, the offence is not made out under section 304-B I.P.C. Even if, the prosecution has stated that there was a demand of Rs.1 lakh, however, it is a custom at the time of delivery of child. It was further contended that according to the panchayatnama and medical report the death was caused due to hanging and as such there is no offence made out under section 304-B I.P.C. (Dowry death). The learned senior counsel for the applicants further contended that the death of the deceased cannot be caused by the husband, his family members and other relatives. The learned A.G.A. refuted the contention and contended that as per the statement recorded on 4.5.2005 under section 161 Cr.P.C. the father of the deceased has given sufficient dowry at the time of marriage, but the husband and the father-in-law of the deceased were not satisfied wit the dowry. As such the husband and his father always demanded money from the family of the deceased. The deceased was subjected to cruelty in connection with the dowry demand. Lal Singh has stated in his evidence on 13.5.2005 that Narendra Kumar and applicant No. 1 demanded Rs.50,000/- from him for the purchase of plot, but Lal Singh gave them only Rs. 15,000/- in the month of March 2004. the learned A.G.A. further contended that Narendra Kumar and applicant No. 1 demanded a sum of Rs. 1 lakh over telephone from the father of the deceased stating that it is the custom in their family at the time of delivery of child and the deceased had deliver the child. It was further contended that there is a presumption under section 113A & B for the abetment of suicide as well as for the dowry death. It was further contended that letter was written by the deceased soon before the death and it has been mentioned in that letter that she was subjected to cruelty on account of dowry. The learned A.G.A. referred the evidence on record in support of his contention. Considering the entire evidence and totality of the circumstances of the case, I am of view that there is demand of dowry

and cruelty soon before the death. The incident took place within seven years of marriage and there are sufficient allegations against the applicant No.1-Mahendra Singh. Therefore, I do not find any good ground for granting the bail to Mahendra Singh.

Whereas the case of applicant No.2-Smt. Krishna @ Kareshna is concerned, she is a lady and apart this the allegations with regard to the dowry demand are vague. As such, Smt. Krishan @ Kareshna is entitled for bail.

Let the applicant No.2-Smt. Krishan @ Kareshna be released on bail on executing a personal bond and two sureties each in the like amount to the satisfaction of the C.J.M. concerned.

(**J.C.S. Rawat, J.)**

Dated 12.8.2005

LSR